

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DONNA JOHNSON and
TOM JOHNSON,

Plaintiffs,

VS.

KDI OMAHA, LP; a Nebraska
Limited partnership; EATON
HYDRAULICS, INC., a Nebraska
Corporation,

Defendants.

8:05CV145

MEMORANDUM AND ORDER

Billy Roy Tyler filed a motion to intervene in this matter and to certify a class (filing 24). Magistrate Judge Piester denied the motion to intervene (filing 30). This matter is before the court on Judge Piester's order (filing 30) and the appeal from that order (filing 32), filed as allowed by 28 U.S.C. § 636 (b) (1) (A) and NELR 72.3.

The court has conducted, pursuant to 28 U.S.C. 636 (b) (1) (A) and NELR 72.3, a review¹ of the portions of the order to which objections have been made and finds that the objection to the order should be denied for the reason that the Magistrate Judge's order was not clearly erroneous or contrary to law.

¹To the extent the appropriate standard of review is de novo, I have conducted a de novo review.

Though Tyler alleges in his objection that he owns real estate at 1451 Emmet Street in Omaha, he does not allege that this property is in the Stillmeadow neighborhood or is west of the manufacturing site in question. Magistrate Judge Piester correctly denied the motion to intervene.

IT IS ORDERED that Tyler's appeal from the Magistrate Judge's order (filing 32) is denied and the Magistrate Judge's order (filing 30) shall not be disturbed and is hereby sustained.

August 10, 2005.

BY THE COURT:

s/Richard G. Kopf
United States District Judge